IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2577 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURYAKANT S SHAH, LECTURER - Petitioner(s)

Versus

SOUTH GUJARAT UNIVERSITY & 1 - Respondent(s)

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Appearance :

MR KI SHAH for Petitioner(s) : 1,MR DEVANG T SHAH for Petitioner(s) : 1,
MR MUKUND M DESAI for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/01/2006

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India the petitioner has prayed for appropriate writ, direction and/or order to quash and set aside the resolution of the Senate of South Gujarat

University dated 28-3-99 as well as the direction issued by the Vice Chancellor of the South Gujarat University dated 29-3-99.

2. It appears from the record that the petitioner who was a lecturer/professor at the relevant time was the Chairman of the Centralized Admission Committee, B.Ed. for the year 1998-99. One resolution came to be passed in the meeting of the Senate of the South Gujarat University dated 28-3-99 to condemn the insubordination of the Chairman (petitioner) and the Convener of the Centralized Admission Committee of B.Ed. for the year 1998-99 of the South Gujarat University towards the authority and officers of the university and for this, the Vice Chancellor of the South Gujarat University was requested to take proper action. It is the case of the petitioner that on the basis of the resolution dated 28-3-99 passed by the Senate as aforesaid, the Vice Chancellor passed an order against the petitioner, which was conveyed by the Registrar of the South Gujarat University to the petitioner vide his letter dated 29-3-99, whereby the Vice Chancellor has ordered that no assignment of the university shall be entrusted to the petitioner and he is not to be appointed for any work relating to the university and in case any appointment or assignment has

been given to him, the same shall also stand cancelled with immediate effect. It is the contention of the petitioner that the order passed by the Vice Chancellor as contained in the Registrar's communication dated 29-3-99 is *per se* without stigmatic and the same has been passed without affording any opportunity to the petitioner and without giving any action inspired notice to him. It is the contention of the petitioner that the Senate passed the said resolution and on that basis the present impugned order was passed against the petitioner and that no procedure was required to be followed and no action inspired notice was required to be given.

3. This court while admitting the present Special Civil Application granted the interim relief staying operation and implementation of the order passed by the Vice Chancellor, South Gujarat University as conveyed by the Registrar on 29-3-99 till the final disposal of the present Special Civil Application.

4. Today, when the matter is called out, Shri Devang Shah, learned advocate appearing on behalf of the petitioner has submitted that so far as the assignment of allotment of work is concerned, it was for a period of one year and by virtue of the interim order, the same was continued and to that effect the present application has

become infructuous. However, so far as the decision of the Vice Chancellor conveyed through the Registrar as well as the resolution passed by the Senate is concerned, it being a stigmatic, he requested to decide the same on merits. He has further submitted that before passing the aforesaid resolution by the Senate terminating the petitioner and directing the Vice Chancellor to take proper action, no procedure has been followed and no opportunity of being heard was given to the petitioner. He has also further submitted that even the Vice Chancellor also before passing the impugned order has not given any opportunity of being heard to the petitioner and as the resolution as well as the order passed by the Vice Chancellor is stigmatic, the petitioner was required to be given an opportunity of being heard and as the same is not given to him, the impugned resolution as well as the decision of the Vice Chancellor are in breach of principles of natural justice.

5. On going through the pleadings and considering the fact of the resolution which came to be passed by the Senate of South Gujarat University and even the decision of the Vice Chancellor, South Gujarat University conveyed by the Registrar of the South Gujarat University to the petitioner vide communication dated 29-3-99 are stigmatic

in nature and as such the Vice Chancellor while passing the impugned order has ordered that no assignment of the university shall be entrusted to the petitioner and that he is not to be appointed for any work relating to the university and in case any appointment or assignment has been given to him, the same shall also stand cancelled with immediate effect.

6. Considering the nature of order, before passing the same the petitioner was required to be given an opportunity of being heard and as the order being a stigmatic, as no opportunity was given to the petitioner before passing the impugned order dated 29-3-99 and therefore, the same is required to be quashed and set aside.

7. For the reasons as stated above, the petition succeeds. The decision of the Vice Chancellor, South Gujarat University conveyed by the Registrar of the South Gujarat University to the petitioner by his communication dated 29-3-99 is hereby quashed and set aside. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

(M.R.SHAH,J.)

Shekhar/-